

HOUSE BILL NO. 620

INTRODUCED BY M. JOPEK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO COUNTY GOVERNMENT; ALLOWING THE CREATION OF A VILLAGE AND AN ELECTED VILLAGE BOARD TO REPRESENT A SPECIFIC UNINCORPORATED AREA WITHIN A COUNTY; PROVIDING DEFINITIONS; REQUIRING A REFERENDUM; PROVIDING EXCEPTIONS; PROVIDING REPORTING PROCEDURES UPON CREATION OF A VILLAGE; DEFINING POWERS AND DUTIES OF A VILLAGE BOARD; AUTHORIZING SERVICES; AUTHORIZING ASSESSMENTS; PROVIDING FOR DISSOLUTION OF A VILLAGE; AMENDING SECTIONS 7-2-2103, 7-5-2502, 7-35-4106, AND 33-20-1104, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, it is found and declared that there is a need for special government services in certain unincorporated areas; and

WHEREAS, it is further found and declared that those services have been provided under varying interpretations of law by counties, leading to widespread disparity in the application of law; and

WHEREAS, it is further found and declared that incorporation of a new municipality as a means of providing those services may be undesirable; and

WHEREAS, it is further found and declared that the residents of certain unincorporated areas have considerable interest in representative and participatory government and should be provided a role whereby they may assist the board of county commissioners in the management of government and special services as they relate to those unincorporated areas; and

WHEREAS, the purpose of this legislation is to provide a uniform plan for the formation of villages and their government within the existing framework of county administration of unincorporated areas to provide that assistance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 14], the following definitions apply:

(1) "Village" means a specific unincorporated area within a county, represented by a village board, in

1 which one or more governmental services are provided by the county in addition to those services provided in
2 the general unincorporated area of the county and are paid for through property taxes or other means by the
3 residents of the specific unincorporated area.

4 (2) "Village board" means the board created to assist and advise the board of county commissioners in
5 the governing of villages.

6
7 **NEW SECTION. Section 2. Formation of village -- resolution -- petition.** (1) Except as provided in
8 [section 8], a village may be formed only by submitting the question to the electors of the specific unincorporated
9 area to be included within the boundaries of the village as determined pursuant to [section 4].

10 (2) The question must be put on the ballot by a resolution passed by the board of county commissioners.
11 The board may consider a resolution of its own accord or upon petition by electors pursuant to subsection (3).

12 (3) (a) A successful petition must be signed by at least 15% of the electors registered at the last general
13 election, determined as nearly as is practicable from the voting records of the whole number of precincts within
14 the boundaries of the proposed village.

15 (b) The board of county commissioners may provide procedures for the submission and verification of
16 a petition.

17 (c) The petition must contain a statement substantially as follows: "The undersigned declare their
18 purpose to be the support of the concept of village government, that they desire to make provision for the
19 supplying of additional services as enumerated in Title 7, MCA, with the recommendation of a village board, and
20 that they acknowledge the fact that the supplying of additional services may require a special tax levy, the
21 establishment of a user fee schedule, or both."

22
23 **NEW SECTION. Section 3. Public hearing -- notice.** (1) Prior to passage of a resolution in accordance
24 with [section 2(2) or 8], the board of county commissioners shall hold at least one public hearing concerning the
25 creation of the proposed village.

26 (2) The board shall publish notice of the hearing as provided in 7-1-2121. At the same time that notice
27 is published, the board shall provide a list of those properties that would be included within the boundaries of the
28 proposed village. A copy of the notice must be mailed to the owners of the properties on the list.

29
30 **NEW SECTION. Section 4. Determining boundaries.** (1) The resolution or petition to create a village

1 must clearly describe the boundaries of the proposed village.

2 (2) The board of county commissioners or petitioners shall consult with a professional land surveyor, as
3 defined in 37-67-101, to prepare a legal description of the proposed boundaries.

4 (3) The proposed area must be contiguous.

5 (4) A map of the proposed area must be attached to the resolution or petition and filed in the office of
6 the election administrator.

7
8 **NEW SECTION. Section 5. Referendum on formation of village.** (1) The referendum on the formation
9 of a village must be held in conjunction with the next primary or general election or by mail ballot election as
10 provided in Title 13, chapter 19.

11 (2) The ballot must include a statement specifying:

12 (a) the general area to be included in the village;

13 (b) the number of members to serve on the village board pursuant to [section 9]; and

14 (c) whether an assessment will be collected pursuant to [section 13(3)] and the estimated cost of that
15 assessment for the average home within the village.

16 (3) The referendum must be conducted, the vote canvassed, and the result declared in the same manner
17 as provided by Title 13 in respect to general elections so far as Title 13 is applicable, except as provided in
18 subsection (1).

19 (4) If the referendum passes, the election administrator shall immediately file with the secretary of state
20 a certificate stating that the proposition was adopted and record the certificate in the office of the county clerk and
21 recorder.

22
23 **NEW SECTION. Section 6. Certificate of establishment.** (1) Upon receipt of the certificate filed
24 pursuant to [section 5(4)], the secretary of state shall, within 10 days, issue a certificate reciting that the village
25 has been established according to the laws of the state of Montana. A copy of the certificate must be transmitted
26 to and filed with the county clerk and recorder of the county in which the village is situated.

27 (2) When the certificate is issued by the secretary of state, the village named in the certificate is
28 established with all the rights, privileges, and powers set forth in [sections 9 through 14].

29
30 **NEW SECTION. Section 7. Additional reporting procedures -- coordination of information,**

transfer, and accessibility. (1) Within 60 days of the creation of the village or by the following January 1, whichever is earlier, the board of county commissioners shall provide to the department of revenue:

(a) a legal description of the village; and

(b) a map of its boundaries.

(2) The department of revenue shall record the:

(a) legal description of the village;

(b) date the village was created; and

(c) book and page or document number of the recorded document as provided for in 7-4-2617.

(3) (a) The department of revenue shall transfer information collected pursuant to this section to the department of administration.

(b) The department of revenue shall coordinate with the department of administration to develop procedures regarding the collection and transfer of this information between the two agencies.

(c) The department of administration shall convert the information received from the department of revenue to a digital format for land information purposes authorized in Title 90, chapter 1, part 4, that can be accessed through the department of administration's base map service center's website and discovered through the Montana geographical information system portal at the Montana state library.

NEW SECTION. Section 8. Formation of village when certain services required by law. (1) Subject to [section 3], the board of county commissioners may by resolution provide for and regulate the formation of a village if the specific unincorporated area to be included in the proposed village is directed by federal or state law to administer one or more of the services enumerated in subsection (2).

(2) The services to be provided include but are not limited to solid waste disposal and compliance with state or federal water or air quality standards.

(3) The resolution must include a legal description of the boundaries of the proposed village in accordance with the provisions of [section 4]. The resolution must also include the number of members to serve on the village board pursuant to [section 9].

(4) The first members of a village board established under this section must be elected in conjunction with the next primary or general election or by mail ballot election as provided in Title 13, chapter 19.

NEW SECTION. Section 9. Governance of village -- powers, duties. (1) (a) A village is governed

1 by the board of county commissioners with representation by an elected village board consisting of three or five
2 members.

3 (b) The existence of the village board may not diminish the responsibility of the board of county
4 commissioners in its capacity as the governing body of the village and in performing its duties.

5 (c) The village board shall act as a liaison between the residents of the village and the board of county
6 commissioners.

7 (d) The village board and the board of county commissioners shall cooperate to inform each other of all
8 matters of interest to the village and its residents.

9 (2) Before the board of county commissioners may implement regulations, increase services, or impose
10 fees or taxes within the village beyond those implemented in the general unincorporated area of the county and
11 except for the assessment authorized in [section 13(3)] if it was approved as part of a referendum held pursuant
12 to [section 5], a majority of the village board shall vote in favor of the proposal. A proposal to impose or raise
13 taxes is subject to the provisions of [section 13].

14 (3) The village board may make recommendations to the board of county commissioners as to
15 regulations, services, improvements, taxes, and fees to be implemented in the village. A majority of the village
16 board shall approve any recommendation before it is made.

17 (4) The village board may not expend or contract any village money of its own accord.
18

19 **NEW SECTION. Section 10. Village board -- election -- qualification -- terms.** (1) At the election
20 provided for in [section 5 or 8(4)], there must be chosen a village board as provided in [section 9].

21 (2) Each member of a village board must be a resident of the village and a qualified elector under state
22 law.

23 (3) Members shall serve staggered 4-year terms.

24 (4) (a) The first members of a village board shall draw lots to determine their terms of office.

25 (b) If the board is composed of three persons, one person shall serve until the first Monday in January
26 after the next general election and two persons shall serve an additional 2 years.

27 (c) If the board is composed of five persons, two persons shall serve until the first Monday in January
28 after the next general election and three persons shall serve an additional 2 years.
29

30 **NEW SECTION. Section 11. Village board -- duties.** The members elected to the village board shall:

- 1 (1) elect officers from within its membership;
- 2 (2) fix a time and place of meetings;
- 3 (3) adopt rules of procedure, including the process for filling vacancies on the board;
- 4 (4) keep records as necessary to be consistent with the purposes of [sections 9 through 14]; and
- 5 (5) serve without compensation.

6
7 **NEW SECTION. Section 12. Additional services authorized.** The board of county commissioners,
8 with the approval of a majority of the village board and in accordance with [section 9(2)], may agree to contract
9 and provide services to the residents of a village, including but not limited to:

- 10 (1) cemetery;
- 11 (2) solid waste disposal and landfill;
- 12 (3) fire protection;
- 13 (4) flood control and drainage;
- 14 (5) garbage collection;
- 15 (6) law enforcement;
- 16 (7) parks;
- 17 (8) recreation;
- 18 (9) sewage collection;
- 19 (10) streets;
- 20 (11) street lights;
- 21 (12) swimming pools;
- 22 (13) television translator;
- 23 (14) water distribution; and
- 24 (15) acquisition, maintenance, and improvement of public property within the village.

25
26 **NEW SECTION. Section 13. Financing for additional services -- assessment -- collection of**
27 **assessment.** (1) Subject to [section 9(2)], the board of county commissioners may make assessments in
28 accordance with the provisions of subsection (2) or impose fees upon property taxpayers or owners of real
29 property within the village for the costs and expenses of services provided to the village in addition to those
30 provided to the general unincorporated area of the county. Fees may be imposed and collected in a manner

1 prescribed by the board of county commissioners.

2 (2) If authorized by the electors residing within the village, the board of county commissioners may
3 impose the number of mills necessary to raise taxes in an amount not to exceed 1.5% of assessed value per
4 year. The levy applies to all taxable real and personal property situated in the village.

5 (3) In addition to taxes levied in accordance with subsection (2), the board of county commissioners may
6 levy a tax not to exceed 1 mill for administrative costs associated with the implementation of village government.

7 (4) In addition to taxes levied pursuant to subsections (2) and (3), the board of county commissioners
8 shall levy a tax for the payment of interest on and redemption of outstanding bonds of the village.

9 (5) Any taxes imposed for additional services and improvements for the village must be collected at the
10 same time, in the same manner, and by the same officers as provided for all other county taxes in Title 7, chapter
11 6.

12 (6) All suits instituted to collect state or county taxes on real or personal property assessed in the village
13 must include the unpaid taxes levied pursuant to this section, and judgments rendered in those proceedings must
14 also include the unpaid taxes levied pursuant to this section.

15
16 **NEW SECTION. Section 14. Dissolution.** (1) If the board of county commissioners determines that
17 the best interest of the village is no longer served by the form of village government, it may order the question
18 to be put on the ballot at the next general election.

19 (2) Subject to subsection (4), if a majority of eligible voters residing within the village favors
20 discontinuance of the village form of government, the village and its village board shall cease to function on the
21 following January 1.

22 (3) When the village ceases to function pursuant to subsection (2), the county clerk shall immediately
23 send written notice to the secretary of state and the department of revenue providing the same information
24 required in [section 7] when a village is created. The department of revenue and the department of administration
25 shall respond to the dissolution in the same manner they respond to the creation of a village as described in
26 [section 7].

27 (4) The dissolution of a village may not relieve the property owners from the assessment and payment
28 of a sufficient amount to liquidate all charges existing against property within the village prior to the date of
29 dissolution.

30 (5) After all debts and obligations of the village have been paid, discharged, or irrevocably settled:

1 (a) any assessments made or fees imposed in accordance with [section 13] must cease; and

2 (b) any remaining assets of the village revert to the board of county commissioners.

3
4 **Section 15.** Section 7-2-2103, MCA, is amended to read:

5 **"7-2-2103. Qualifications for municipality or village to be county seat.** ~~No A city, or town, or village~~
6 ~~shall may not~~ become the temporary or permanent county seat of any county organized under the provisions of
7 part 22 or created by an act of the legislature unless ~~such the~~ city or town ~~shall have~~ has been incorporated in
8 the manner provided by law ~~or unless such village shall have been regularly platted and a plat thereof filed in the~~
9 ~~office of the county clerk and recorder and there be fifty qualified electors residing within the boundaries of such~~
10 ~~platted village."~~

11
12 **Section 16.** Section 7-5-2502, MCA, is amended to read:

13 **"7-5-2502. Vacation of portion of ~~village or townsite.~~** (1) When only a portion of any ~~village or~~
14 ~~townsite in any unincorporated village or town~~ is sought to be vacated or excluded from the ~~village or townsite~~
15 and the portion is not less than three blocks in area and is situated at the limits or boundaries of the ~~village or~~
16 ~~townsite~~, a verified petition may be filed in the office of the clerk of the district court of the county where the ~~village~~
17 ~~or townsite~~ is situated by the owner or owners of all the property sought to be vacated or excluded. The petition
18 must be addressed to the district court of the county, setting forth the description of the portion sought to be
19 excluded and the reason or reasons for desiring the portion to be excluded. A citation must be issued by the judge
20 of the court before whom the matter is pending, citing all persons interested in the matter to appear before the
21 court at a time and place specified in the citation, but at a time not less than 3 weeks from the date of the citation.
22 The citation must be published as provided in 7-1-2121.

23 (2) Upon the hearing of the petition and upon conditions that may seem reasonable, the court may
24 vacate and exclude the portion of the ~~village or townsite~~ as requested in the petition, including any streets, alleys,
25 parks, or boulevards upon which a public easement or easements may not vest. The excluded property must be
26 described by metes and bounds in the decree of the court, and the property must be assessed accordingly."

27
28 **Section 17.** Section 7-35-4106, MCA, is amended to read:

29 **"7-35-4106. Inhabitants of municipality to own cemetery.** The inhabitants of any city, town, ~~village~~
30 population density area, or neighborhood may, by subscription or otherwise, purchase or receive by gift or

donation lands not exceeding 160 acres to be used as a cemetery; ~~the~~ The title thereof to of the land must be
vested in ~~such the~~ inhabitants, and when once dedicated for use for burial purposes, the lands ~~must thereafter~~
~~may not~~ be used for ~~no~~ any other purpose except as provided in 7-35-4102."

Section 18. Section 33-20-1104, MCA, is amended to read:

"33-20-1104. Public employee groups. The lives of a group of individuals may be insured under a
policy issued to an incorporated city; ~~or town, or village~~ or an association or league of cities; ~~or towns, or villages~~;
an independent school district, a state college or university, any association of state employees, ~~and~~ any
association of state, county, ~~and~~ city, ~~or town, or village~~ employees, and any combination of state, county, ~~or~~ city,
~~or town, or village~~ employees and any department of the state or county government; ~~which~~ The employer or
association ~~shall be deemed~~ is considered the policyholder; ~~to~~ The policy may insure the employees of any ~~such~~
incorporated city; ~~or town, or village~~, of any ~~such~~ independent school district, of any ~~such~~ state college and
university, or of any ~~such~~ department of the state or county government or members of any association of state,
county, ~~or~~ city, ~~or town, or village~~ employees; for the benefit of persons other than the policyholder, subject to the
following requirements:

(1) The employees eligible for insurance under the policy ~~shall~~ must be all of the employees of the
employer or all of any class or classes of employees ~~thereof~~ determined by conditions pertaining to their
employment. The policy may provide that the term "employees" ~~shall include~~ includes retired employees. A policy
issued to insure the employees of a public body may provide that the term "employees" ~~shall include~~ includes
elected or appointed officials.

(2) The premium for the policy ~~shall~~ must be paid by the policyholder wholly from funds contributed by
it as employer or partly from ~~such~~ those funds and partly from funds contributed by the insured employees or
wholly from funds contributed by the insured employees, except that:

(a) the employer may deduct from the employees' salaries the required contributions for the premiums
when authorized in writing by the respective employees ~~so to do~~; and

(b) the premium for the policy may be paid by the policyholder wholly or partly from funds contributed
by any incorporated city; ~~or town, or village~~ policyholder when authorized by the charter of ~~such the~~ city; ~~or town;~~
~~or village~~ or as otherwise authorized by law.

(3) ~~Such~~ The policy may be placed in force only if at least 75% of the eligible employees, excluding any
as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium

1 contributions and become insured thereunder.

2 (4) The policy must cover at least 10 employees at date of issue."

3

4 NEW SECTION. **Section 19. Codification instruction.** [Sections 1 through 14] are intended to be
5 codified as an integral part of Title 7, chapter 2, and the provisions of Title 7, chapter 2, apply to [sections 1
6 through 14].

7

8 NEW SECTION. **Section 20. Effective date.** [This act] is effective July 1, 2009.

9

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